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**RESPONSE UNDER 37 C.F.R. 1.116  
EXPEDITED PROCEDURE  
EXAMINING GROUP 3733**

**PATENT  
Attorney Docket No. 101.0093-02000  
Customer No. 22882**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: ) Confirmation No.: 7390  
Gary K. Michelson )  
Serial No.: 10/809,149 ) Group Art Unit: 3733  
Filed: March 25, 2004 ) Examiner: James L. Swiger III  
For: METHOD FOR USING ARCUATE )  
DYNAMIC LORDOTIC GUARD WITH )  
MOVEABLE EXTENSIONS FOR )  
FOR CREATING AN IMPLANTATION )  
SPACE POSTERIORLY IN THE )  
LUMBAR SPINE )

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**REPLY TO FINAL OFFICE ACTION**

In reply to the Final Office Action of February 26, 2007, and pursuant to 37 C.F.R. § 1.116, the following remarks are submitted:

The Examiner has rejected claims 1-2, 4-13, 15, 17-19, 21-22, 25-30, and 44 under 35 U.S.C. § 102(e) based on U.S. Patent Pub. 2003/0135220 to Cauthen ("Cauthen"). According to MPEP § 706.02, "for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly." As discussed below, Cauthen does not teach every limitation as claimed in independent claim 1. As such, Applicant respectfully traverses the Examiner's rejection of independent claim 1 based on 35 U.S.C. § 102(e).

Reply to Final Office Action 3-14-07.doc

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